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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,424	03/17/2000	Rolf Kohler	10191/1333	4178

26646 7590 10/30/2002

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ONE BROADWAY  
NEW YORK, NY 10004

EXAMINER

MAYO, KIMBERLY N

ART UNIT	PAPER NUMBER
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2187

DATE MAILED: 10/30/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/527,424

Applicant(s)

KOHLER ET AL.

Examiner

Kimberly N. McLean-Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

1. The enclosed detailed action is in response to the Amendment submitted on August 6, 2002.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-32, the phrase "and/or" renders the claim indefinite because it is unclear whether the Applicant is claiming one or more of the limitations following the phrase. The boundary of the claimed invention can not be determined. For, example, the specification does not support erasing and/or programming. The specification supports a system including a flash device which performs erasing. The same system is disclosed with a different flash device which performs only programming and the same system is disclosed with a different flash device which performs erasing and programming, however, one system including all three embodiments is not supported.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 12-14, 24-26 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (USPN: 5,930, 826).

Regarding claims 1-3, 6, 12-13, 16-18 and 24-32, Lee discloses a method of erasing and/or programming data and/or programs in a memory arrangement, comprising the steps of: providing an identifier (Figure 1, comprised of References 81, 82 and 83) into an area the memory arrangement (Figure 1, comprised of References 10 and 11; C 5, L 61-62) that is to be erased and/or programmed, the identifier identifying a correct erasing and/or programming of the memory arrangement (C 3, L 50-64); and altering the identifier in the memory arrangement before erasing and/or programming the data and/or programs (C 6, L 44-46; C 3, L 57-63 – Lee teaches that when a memory sector is accessed, its protection bits are accessed also and are examined before any operation on the data is executed. Hence, it is evident that the identifier is programmed before erasing and/or programming the data and/or programs). Lee does not explicitly disclose a computer control unit in a motor vehicle having the above memory arrangement. However, it is well known in the art to use memory devices in a computer control unit in a motor vehicle. The features taught by Lee provide memory protection to prevent unintentional erasures or programming of data. Hence, it would have been obvious to one of ordinary skill in the art to use the memory arrangement having the above features in a computer control unit in a motor vehicle for the desirable purpose of providing data protection, accuracy and reliability.

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Regarding claims 4-5 and 14-15, Lee discloses entering the identifier into a further area of the memory arrangement, the further area being erased and/or programmed only after erasing and/or programming of the area (C 5, L 36-50).

6. Claims 7-11 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (USPN: 5,930, 826) in view of the submitted prior art Yousuke et al. (JPPN: 09161493 A).

Lee discloses the limitations cited above. However, Lee does not disclose the identifier as a section of a program identifier which identifies the respective data and/or programs nor altering the identifier by erasing and/or programming so that the identifier is unidentifiable. Yousuke does disclose an identifier as a section of a program identifier which identifies the respective data and/or programs and altering the identifier (by replacing the identifier/write execution display flag with a different identifier/write end display flag) by erasing and/or programming so that the identifier is unidentifiable (Abstract). Yousuke teaches that this feature improves reliability (Abstract). Hence it would have been obvious to one of ordinary skill in the art to use Yousuke's teachings with the teachings of Lee for the desirable purpose of improved reliability.

#### ***Response to Arguments***

7. Applicant's arguments filed have been fully considered but they are not persuasive. Regarding Applicant's argument that Lee does not teach providing an identifier identifying a correct erasing and/or programming of an area in a memory arrangement, the Examiner disagrees. Lee teaches that the identifier(s) are protection bits which prevent the corresponding

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data from being erased, programmed or read incorrectly (C 2, L 42-48; C 3, L 40-64; C 4, L 1-48) and thus the identifier in Lee's system does identify a correct erasing and/or programming memory arrangement. When the erase and/or program bits of the identifier indicate an unprotected state, the corresponding data is a correct erasing and/or programming memory arrangement. The phrase "correct erasing and/or programming" is interpreted to mean an approved area to erase or program.

Regarding Applicant's argument concerning claims 7-11 and 19-23, Yousuke is not provided in the rejection to suggest modifying Lee to include an identifier identifying a correct erasing and/or programming area of a memory arrangement as this feature is already taught by Lee. Yousuke is provided for discloses an identifier as a section of a program identifier which identifies the respective data and/or programs and altering the identifier (by replacing the identifier/write execution display flag with a different identifier/write end display flag) by erasing and/or programming so that the identifier is unidentifiable (Abstract). The identifier (write execution display flag) is unidentifiable after erasing and/or programming because a different identifier is present thereafter (write end display flag). The write end display flag is not the write execution display flag and therefore the write execution display flag is unidentifiable. Additionally, write execution flag is also a program identifier which inherently identifies the memory area corresponding to the flag as a data /program area wherein data is going to be written.

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The Applicant refers to C 6, L 18-20 in Lee as information which supports Lee teaching away from using the protection bits to identify a correct erasing and/or programming area of a memory arrangement. The Examiner does not follow this logic. It is not clear as to how using a series of commands, which by the way are used to generate the PRTMODE signal, required to enter a special protection mode in order to prevent unintentional changes of the protection bits teaches away from using the protection bits to identify a correct erasing and programming area of a memory arrangement.

***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Application/Control Number: 09/524,724

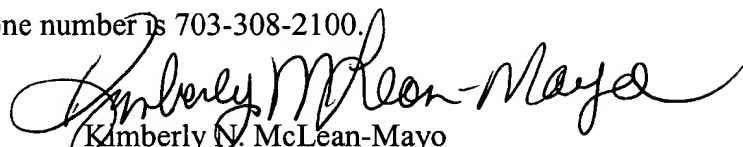
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly N. McLean-Mayo whose telephone number is 703-308-9592. The examiner can normally be reached on M-F (9:00 - 6:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Do Yoo can be reached on 703-308-4908. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7329 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2100.

  
Kimberly N. McLean-Mayo  
Examiner  
Art Unit 2187

KNM

October 9, 2002

  
DO HYUN YOO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100